

UNITED STATES DISTRICT COURT
for the

Eastern District of North Carolina

United States of America
v.

Rico Moses

Date of Original Judgment: May 23, 2007

Date of Previous Amended Judgment: August 5, 2009

(Use Date of Last Amended Judgment if Any)

Case No: 5:06-CR-258-2FL

USM No: 25455-056

Joseph B. Gilbert

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (*as reflected in the last judgment issued*) of _____ months **is reduced to** _____

While the guideline amendment is applicable, the court considers a reduction not consistent with the policy statement in the Guidelines. See USSG 1B1.10(a), comment. (n. 1(B)(ii) and (iii)). In particular, a reduction is not warranted due to defendant's post-sentencing conduct, including fighting and use of marijuana, as set forth in disciplinary hearing reports. As a result of such conduct, a reduction also poses a danger to the community.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

(Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment(s) dated May 23, 2007, and August 5, 2009, shall remain in effect. **IT IS SO ORDERED.**

Order Date: February 18, 2016

Louis W. Elorayan

Judge's signature

Effective Date: _____
(if different from order date)

Louise W. Flanagan, U.S. District Judge

Printed name and title